



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|-----------------------|---------------------|------------------|
| 10/089,433 | 03/29/2002 | Joseph P. Marino, Jr. | P51034 | 6921 |

20462 7590 07/06/2005

SMITHKLINE BEECHAM CORPORATION
CORPORATE INTELLECTUAL PROPERTY-US, UW2220
P. O. BOX 1539
KING OF PRUSSIA, PA 19406-0939

EXAMINER

ANDERSON, REBECCA L

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

1626

DATE MAILED: 07/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE

U.S. Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

| APPLICATION NO/ CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR / PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
|--------------------------------|-------------|---|---------------------|
|--------------------------------|-------------|---|---------------------|

10/089,433

March 29, 2002

MARINO, JR. ET AL.

P51034

EXAMINER

R. Anderson

ART UNIT

PAPER

1626

062905

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Receipt is acknowledged of a request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e) and a submission, filed on 25 April 2005. The submission, however, is not fully responsive to the prior Office action because, see MPEP 706.07 VI, the claims presented are to a different invention. Applicants cannot file an RCE to obtain continued examination on the basis of claims that are independent and distinct from the claims previously claimed and examined as a matter of right (i.e., applicant cannot switch inventions). Furthermore, the amendment filed on 25 April 2005 canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive as the claims are not readable on the elected invention (MPEP § 821.03). The remaining claims are not readable on the elected invention because applicant elected Group II in the response filed 26 June 2003. Group II as stated in the lack of unity requirement mailed 23 May 2005 is claim(s) 1-21 drawn to products of the formula (I) wherein: X is S; R1 is optionally substituted furan; R2 is optionally substituted Ar-C0-6alkyl; R3 is H, optionally substituted C1-6alkyl, C3-6alkenyl and C3-6alkynyl; and methods of preparation and methods of use. As stated in the final rejection mailed 22 July 2004, the elected Group II from the lack of unity requirement stated that R1 is only optionally substituted furan, i.e. optionally substituted furanC0alkyl. Optionally substituted furan finds support in the originally filed formula (I), page 4, and formula (IA), page 5, and also in the originally filed specification, which lists compounds, for example, 3-(2-methyl-anilino)-5-(furan-3-ylthio)-1,2,4-triazole, page 18. As applicants' instant claims are drawn to products of the formula (I) wherein R1 is optionally substituted furan-C1alkyl, their methods of use and preparation, these claims are presented drawn only to a non-elected invention and applicants amendment filed 25 April is considered non-responsive.

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Conclusion

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rebecca L.

Anderson whose telephone number is (571) 272-0696. Mrs. Anderson can normally be reached Monday through Friday 5:30AM to 2:00PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Joseph K. McKane, can be reached at (571) 272-0699.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Re

Rebecca Anderson
Patent Examiner
Art Unit 1626, Group 1620
Technology Center 1600

6/29/05

KAMAL A. SAEED, PH.D.

PRIMARY EXAMINER

for *Kamal Saeed*
Joseph K. McKane
Supervisory Patent Examiner
Art Unit 1626, Group 1620
Technology Center 1600